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**Testimony of  
Ronald Cordilico, CEA Legal Counsel  
Connecticut Education Association**

**Written Testimony  
Before the  
Education Committee**

**S.B. No. 24 'An Act Concerning Educational Competitiveness'**

**February 21, 2012**

**My name is Ronald Cordilico. I am Legal Counsel to the Connecticut Education Association (CEA). I am speaking in opposition to Senate Bill 24, Section 29.**

**Senate Bill 24 is a complex bill which affects many areas of education. I am speaking specifically today on Section 29 of the Bill which affects teacher tenure.**

**Tenure, as well as certification, are based on evaluation measures which are not clearly defined. Section 29 is unclear on such things as whether evaluations are annual. It leaves open the question what happens when several reasons for termination are combined such as "ineffectiveness" and "other due and sufficient cause" i.e., which timelines prevail? Section 29 uses the term "unprofessionalism" in reason number six yet nowhere defines what this term means? Other aspects of Senate Bill 24 that are unclear are placement on the salary schedule or whether an impartial hearing officer can review the substance of an evaluation.**

**In contrast, the AFT/CEA proposed bill (copy attached) is clear in its terminology and, regarding fair dismissal, it achieves an equitable and streamlined due process procedure for teacher termination which serves the best interest of the educational system.**

**I have attached my analysis of Section 29 of the SB24 and intend to testify before the Education Committee.**

**Thank you.**

## CHANGES IN C.G.S. Section 10-151 EFFECTIVE JULY 1, 2013

### I. DEFINITIONS SECTION:

Lines  
3429-3431

THE "DRIVERS" IN THE PROPOSED BILL ARE FOUR "DESIGNATORS" FOR EVALUATIONS: "DEVELOPING", "PROFICIENT", "EXEMPLARY" AND "BELOW STANDARD."

Lines  
3082-3086

"TEACHER" defined: A teacher is a certified professional employee who must be (1) employed for at least one year; and (2) received an evaluation rating of "developing or better on an evaluation."

COMMENT: Certified professional employee is an at will employee for one-year rather than present ninety days. Remember this means that the teacher is a member of the bargaining unit but is not covered by Section 10-151.

### II. TENURE OBTAINED:

Lines  
3102-3110

- (1) "during" 30 months if (a) teacher has received two exemplary ratings and superintendent offers contract for following school year OR
- (2) "during" 50 months if teacher has received a combination of three "proficient" or "exemplary" ratings.

COMMENT: 40 school months to obtain tenure is eliminated. If teacher does not receive a combination of 3 "proficient" or "exemplary", teacher out after 50 school months. THE MOST CRITICAL FACTORS ARE EVALUATIONS, NOT TIME.

### III. REGAINING TENURE:

Lines  
3142-3160

- (1) If "during" 30 months teacher receives two "proficient" or "exemplary" ratings in the year prior to completion of 30 months unless superintendent notifies teacher prior to completion of 30<sup>th</sup> month or more than 5 years has elapsed since last employed as teacher (both of these conditions are in present language).

Lines  
3156-3160

- (2) Superintendent may "award(s) tenure to such teacher prior to such teacher receiving two proficient or exemplary ratings on an evaluation conducted pursuant to Section 10-151b...."

COMMENT: Among other things, time required to regain tenure increased to 30 months from 20 months. Superintendent can "award" tenure regardless of evaluations.

#### IV. OFFER OF CONTRACT FOR FOLLOWING YEAR:

Lines  
3175-3176  
3192-3197

Board of education "shall" authorize superintendent to employ teachers rather than "may" authorize superintendent to employ teachers. Contract of employment for following year offered to non-tenured teacher only if teacher receives rating on evaluations of "developing or better."

COMMENT: Superintendent's role is strengthened in this section and previous Section where superintendent "may award" tenure to a rehired teacher in lines 3142 - 3160.

#### V. NON-TENURED TEACHERS:

Line 3205

Non-tenured teacher notice moved from May 1<sup>st</sup> to June 1<sup>st</sup> (It was moved from April 1<sup>st</sup> to May 1<sup>st</sup> last year. Originally, it was March 1<sup>st</sup>).

Line 3212

Since the words "or nonrenewal" is bracketed, it appears that a hearing is only allowed if the non-tenured teacher receives a termination notice. A teacher who receives a non-renewal notice is not entitled to a hearing but see Lines 3227 - 3238, which appear to be in conflict.

Line  
3214-3225

The impartial hearing panel is not really an option. The hearing is held before the board or a "single impartial hearing officer" if the teacher requests and the board so designates. The findings and recommendation must be made no later than 30 days after the request for a hearing.

Lines  
3232-3234

Rather than rescinding a non-renewal decision, the board or the impartial hearing officer "affirm[s] the recommendation for termination" unless decision is arbitrary and capricious.

Lines  
3235-3238

There is no right of appeal to court for any reason, even in cases of disability or moral misconduct which is the case under the present language.

COMMENT: The only actions left are non-renewal notices prior to June 1<sup>st</sup> with no hearings or a notice of termination with a termination hearing but with no right of a court appeal no matter what reason. Section (c) is confusing.

## VI. TENURE TEACHER TERMINATION:

Although the proposed legislation replaces the tripartite hearing panel with a single impartial hearing officer, the hearing officer can only make findings and a recommendation to the board of education which still retains the final authority as to whether to terminate the contract or not. A very restricted exception is under Reason One "ineffectiveness". See Section VIII below.

Lines  
3242-3247

Two of the six reasons for termination have been changed. Reason One is changed from "inefficiency or incompetence" to "ineffectiveness," as described in Subsection (e) of this section. The sixth reason is changed to "other due and sufficient cause such as unprofessionalism which may include violations of the code of professional responsibility for educators."

Lines  
3333-3341

"Ineffectiveness" is defined as (A) being tenured or non-tenured and rated as "below standard" based on evaluations; or (B) tenured and rated as "developing for two or more consecutive years based on evaluations."

COMMENT: The proposed legislation creates a separate termination procedure if the reason given is "ineffectiveness" under Subsection (e) (see Section VIII below). This is confusing since Reason One is always combined with reason six. The Code of Professional Responsibility has often been cited in teacher termination hearings.

## VII. TIMELINES FOR HEARING:

Lines  
3305-3312

The timelines for termination hearings are confusing. Under lines 3265-3279, the hearing must commence no later than 50 days after the notice; i.e., date of notice, plus 20 for the request, plus 15 for commencement of hearing unless parties agree to an extension of 15 days (so  $20+15+15 = 50$ ). This is the same as presently exists. However, then line 3305 says the decision must be submitted within 30 days of the request for a hearing with a possible extension of 15 ( $20+30+15$ ) is 65 days for the decision.

COMMENT: The timelines for termination are internally inconsistent.

Timelines for Reason One, "ineffectiveness", requires that the decision be rendered no later than 65 days for the notice of consideration of termination. Timelines for reason 2 through 6 requires that the commencement of the hearing be no later than 50 days of the notice of consideration of termination. NOTE: Phrase "the disposition of the charges" does not appear in the present statute.

### VIII. TERMINATION FOR INEFFECTIVENESS:

If the reason for consideration of contract termination is "ineffectiveness" then the proposed statute creates a separate procedure as follows.

(1) The hearing is held before the board of education (non-tenured teacher) or before a single impartial hearing officer (tenured teacher).

Line 3364  
Line 3367

(2) The hearing is limited to the question of whether the ratings of the teacher were determined in accordance with "the evaluation procedures described in Section 10-151b."

Line 3367

(3) The hearing is limited to 8 hours unless extended for "good cause shown".

Lines  
3374 to  
3380

(4) The impartial hearing officer shall make a written finding and decision, and may terminate a teacher's contract based on a finding that "the ratings of the teacher was determined in accordance with the evaluation procedures described in Section 10-151b."

(5) Timelines: up to 20 days for request, 15 days after request for commencement of hearing, plus 15 for agreed upon extension, plus 15 for decision. Total: 65 days from request to decision.

COMMENT: The decision of the impartial hearing officer under Reason One "ineffectiveness" is final and binding unlike the officer's "recommendation" on contract termination for reasons 2 through 6, as set forth in lines 3309 - 3312.

TEACHERS' NEGOTIATIONS ACT:

STATUTORY MANDATES CONCERNING COLLECTIVE BARGAINING

- (1) Definition of "Progression Based on Effective Practice" – Section 30  
Effective July 1, 2012

Lines  
3537-3551

Teachers move up on salary scale ONLY IF (1) teachers with initial certificate receive a rating of "developing", "proficient" or "exemplary"; (2) teachers with professional educator certificate or master educator certificate, must have rating as "proficient" or "exemplary".

- (2) Additional Compensation – Section 31 Effective July 1, 2013

Lines  
3461-3472

If either party requests, both parties have duty to negotiate additional compensation for teachers who have an exemplary rating or "who improve in their performance ratings on such performance evaluations."

- (3) Salary Schedules – Section 31 Effective July 1, 2013

Lines  
3466-3472

Beginning with collective bargaining agreements effective July 1, 2014 or July 1, 2015, subject to "statutory provision on conditional funding," salary schedules must align with initial, professional and master certificate levels NOT degree status, years of service, or similar provisions.

COMMENT: Salary schedules based on years of experience or other factors are eliminated in the future. Merit pay is mandatory subject of negotiations.

## General Assembly

Regular Session, 2012

### AN ACT CONCERNING TEACHER EVALUATION, PROFESSIONAL SUPPORT, AND FAIR DISMISSAL

Strike everything after the enacting clause and substitute the following in lieu thereof:

1 "Sec. 1. Section 10-151d of the general statutes is repealed and the  
2 following is substituted in lieu thereof (*Effective July 1, 2011*):

3 (a) There is established a Performance Evaluation Advisory Council  
4 within the Department of Education. Membership of the council shall  
5 consist of: (1) The Commissioners of Education and Higher Education,  
6 or their designees, (2) one representative from each of the following  
7 associations, designated by the association, the Connecticut  
8 Association of Boards of Education, the Connecticut Association of  
9 Public School Superintendents, Connecticut Federation of School  
10 Administrators, the Connecticut Education Association and the  
11 American Federation of Teachers-Connecticut, and (3) persons selected  
12 by the Commissioner of Education who shall include, but not be  
13 limited to, teachers, persons with expertise in performance evaluation  
14 processes and systems, and any other person the commissioner deems  
15 appropriate.

16 (b) The council shall meet at least quarterly and shall be responsible for  
17 (1) assisting the State Board of Education in the development and  
18 implementation of the teacher evaluation guidelines, pursuant to this  
19 section and subsection (c) of section 10-151b, as amended by this act,  
20 and (2) the data collection and evaluation support system, pursuant to  
21 subsection (c) of section 10-10a. [~~The council shall meet at least~~  
22 ~~quarterly.~~]

23 (c) On or before July 1, 2012, such guidelines shall be developed for  
24 use by local and regional boards of education and regional educational  
25 service centers for the development of local teacher performance  
26 evaluation plans required pursuant to section 2 of this act and shall be  
27 based on the following standards:

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28     (1) the development and implementation of ongoing training  
29     programs to be offered by the local or regional board of education or  
30     regional educational service center for the school district to teachers  
31     who are employed by such school district and whose performance is  
32     being evaluated and to administrators who are employed by such  
33     school district and who are conducting performance evaluations,

34     (2) teacher evaluations to be based on educator knowledge and skill,  
35     using multiple indicators of student academic growth and  
36     development, and accounting for local conditions based on the state  
37     data system established pursuant to subsection c of section 10-10a of  
38     the general statutes,

39     (3) the provision of professional development based on an individual  
40     or group of individuals' needs that are identified through the  
41     evaluation process and based on a professional career continuum  
42     recommended by the Council,

43     (4) the creation of individual teacher improvement and remediation  
44     plans that identify resources, support, and other strategies to address  
45     documented deficiencies for teachers whose performance is  
46     determined to be deficient;

47     (5) strategies for such individual teacher improvement and  
48     remediation plans to be collaboratively developed by the evaluating  
49     administrator, the teacher whose performance is found to be deficient,  
50     and other persons deemed appropriate through an agreement by a  
51     local or regional board of education or regional educational service  
52     center and the exclusive bargaining representative for certified  
53     teachers chosen pursuant to section 10-153b of the general statutes;

54     (6) teacher improvement and remediation plans to be developed with  
55     consideration given to a teacher's most recent performance  
56     evaluations. Such teacher improvement and remediation plans shall  
57     include the following:

58             (A) a description of the reasons that a teacher's performance has  
59             been found to be deficient, a plan on how to improve such teacher's  
60             deficient performance;



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61           (B) an articulation of indicators of success, timelines and  
62           support for such teacher, and periodic reviews of such teachers;

63           (C) an adequate time period not to exceed the equivalent of one  
64           school year from the date a determination of deficiency has been made  
65           for such teacher to improve his or her performance; and

66           (D) the provision, by the local or regional board of education or  
67           regional educational service center, of resources and supports  
68           identified pursuant to subparagraphs (4) and (5) of this subsection to  
69           such teacher during the improvement and remediation period, and

70           (7) summative assessments to be conducted at the end of such  
71           improvement and remediation plan period for teachers whose  
72           performance is determined to be deficient. Such summative  
73           assessments shall include determinations by the evaluating  
74           administrator on the progress such teacher has achieved toward  
75           meeting the standards and goals set forth in the improvement and  
76           remediation plan. Such summative assessments may include  
77           observations from other persons deemed appropriate through an  
78           agreement by a local or regional board of education or regional  
79           educational service center and the exclusive bargaining representative  
80           for certified employees chosen pursuant to section 10-153b of the  
81           general statutes.

82           (8) a procedure for notifying any teacher who has been found to be  
83           deficient and who does not successfully complete an improvement and  
84           remediation plan that such teacher shall be subject to termination  
85           proceedings in accordance section 10-151 of the general statutes, as  
86           amended by this act.

87           (d) Prior to the implementation of any teacher performance evaluation  
88           plan developed pursuant to this act, a local or regional board of  
89           education or regional educational service center, such board of  
90           education or service center shall implement teacher performance  
91           evaluation training programs in accordance with subparagraph (1) of  
92           subsection (c) of this section. Such training shall include information  
93           relating to the standards, indicators and protocols that will be used to  
94           evaluate teacher performance in the school district, and shall be

95 required for all administrators and teachers prior to participation in an  
96 evaluation process.

97 (e) Local teacher performance evaluation plans shall be negotiated by  
98 local and regional boards of education and regional educational  
99 service centers with the authorized bargaining agent for certified  
100 teachers subject to Sections 10-153a to 10-153f, inclusive, of the general  
101 statutes.

102

103 Sec. 2. Section 10-151b of the general statutes is repealed and the  
104 following is substituted in lieu thereof (*Effective July 1, 2011*):

105 (a) The superintendent of each local or regional board of education  
106 shall evaluate or cause to be evaluated each probationary teacher on an  
107 annual basis and continuously evaluate or cause to be evaluated each  
108 accredited teacher, in accordance with standards as set forth in Section  
109 1(c) of 10-151 and guidelines [established] adopted by the State Board  
110 of Education pursuant to subsection (c) of this section, as amended by  
111 this act, and such other guidelines as may be established by mutual  
112 agreement between the local or regional board of education and the  
113 teachers' representative chosen pursuant to section 10-153b[  
114 continuously evaluate or cause to be evaluated each teacher]. An  
115 evaluation pursuant to this subsection shall incorporate standards and  
116 guidelines identified in Section 1 of this act and shall include, but need  
117 not be limited to, strengths, areas needing improvement, strategies for  
118 improvement and multiple indicators of student academic growth and  
119 development. Claims of failure to follow the established procedures of  
120 such teacher performance evaluation plans [evaluation programs] shall  
121 be reported to the Commissioner of Education and shall be subject to  
122 the grievance procedure in collective bargaining agreements  
123 negotiated subsequent to July 1, 2004. The superintendent shall report  
124 the status of teacher evaluations, including the frequency of  
125 evaluations and the number of teachers who have not been evaluated  
126 in accordance with the local plan to the Commissioner of Education  
127 and local or regional board of education on or before June first of each  
128 year. For purposes of this section, the term "teacher" shall include each  
129 professional employee of a board of education, below the rank of

130 superintendent, who holds a certificate or permit issued by the State  
131 Board of Education.

132 (b) Each local and regional board of education shall develop and  
133 implement teacher performance evaluation plans [evaluation  
134 programs] consistent with standards as set forth in Section 1(c) and  
135 guidelines [established] adopted by the State Board of Education, in  
136 consultation with the Performance Evaluation Advisory Council,  
137 pursuant to subsection (c) of this section as amended by this act, and  
138 consistent with the plan developed in accordance with the provisions  
139 of subsection (b) of section 10-220a.

140 (c) On or before July 1, 2013, the State Board of Education shall  
141 adopt in consultation with the Performance Evaluation Advisory  
142 Council established pursuant to section 10-151d, [~~guidelines for a~~  
143 ~~model teacher evaluation program.~~] teacher performance evaluation  
144 guidelines based on the standards in Section 1(c) developed for use by  
145 local and regional boards of education and regional educational  
146 service centers developed pursuant to 10-151d, as amended by this act.  
147 Such guidelines shall provide guidance on the use of multiple  
148 indicators of student academic growth and development in teacher  
149 evaluations and [~~Such guidelines~~] shall include, but not be limited to:  
150 (1) Methods for assessing student academic growth and development;  
151 (2) a consideration of control factors tracked by the state-wide public  
152 school information system, pursuant to subsection (c) of section 10-10a,  
153 that may influence teacher performance ratings, including, but not  
154 limited to, student characteristics, student attendance and student  
155 mobility; and (3) minimum requirements for teacher evaluation  
156 instruments and procedures.

157 Sec. 3 (NEW) (a) On or before July 1, 2012, the State Board of Education  
158 shall develop, in consultation with the Performance Evaluation  
159 Advisory Council established pursuant to section 10-151d, a plan for  
160 implementing an evaluator assessment for determining competency in  
161 conducting teacher evaluations. Such evaluation shall include an  
162 independent observer's assessment of whether evaluators' ratings  
163 properly align to the standards and guidelines adopted by the Board of  
164 Education pursuant to this act.

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165 (b) On or before July 1, 2013, the State Board of Education shall  
166 require each candidate applying for a new administrator certification,  
167 or renewal of an administrator certification, to satisfactorily complete  
168 the evaluator assessment established in subsection (a) of this section.

169 Sec. 4 Section 10-151 of the general statutes is repealed and the  
170 following is substituted in lieu thereof (*Effective July 1, 2011*):

171 (a) For the purposes of this section:

172 (1) The term "board of education" shall mean a local or regional  
173 board of education or the board of trustees of an incorporated or  
174 endowed high school or academy approved pursuant to section 10-34,  
175 which is located in this state;

176 (2) The term "teacher" shall include each certified professional  
177 employee below the rank of superintendent employed by a board of  
178 education for at least ninety days in a position requiring a certificate  
179 issued by the State Board of Education;

180 (3) The term "continuous employment" means that time during  
181 which the teacher is employed without any break in employment as a  
182 teacher for the same board of education;

183 (4) The term "full-time employment" means a teacher's  
184 employment in a position at a salary rate of fifty per cent or more of  
185 the salary rate of such teacher in such position if such position were  
186 full-time;

187 (5) The term "part-time employment" means a teacher's  
188 employment in a position at a salary rate of less than fifty per cent of  
189 the salary rate of such teacher in such position, if such position were  
190 full-time;

191 (6) ~~The term "tenure" means:]~~ The "term" days shall mean  
192 calendar days.

193 (7) The term "probationary teacher" shall mean a teacher who has  
194 not attained accredited teacher status.

195 (8) The term "accredited teacher" shall mean a teacher who has  
196 [completion]completed forty school months of fulltime continuous  
197 employment for the same board of education provided the  
198 superintendent offers the teacher a contract to return for the following  
199 school year.

200 (A) For purposes of calculating continuous employment towards  
201 [tenure] accredited teacher status, the following shall apply: (i) For a  
202 probationary teacher [who has not attained tenure], two school months  
203 of part-time continuous employment by such teacher shall equal one  
204 school month of full-time continuous employment except, for a teacher  
205 employed in a part-time position at a salary rate of less than twenty-  
206 five per cent of the salary rate of a teacher in such position, if such  
207 position were full-time, three school months of part-time continuous  
208 employment shall equal one school month of full-time continuous  
209 employment; (ii) a probationary teacher [who has not attained tenure]  
210 shall not count layoff time towards [tenure,] accredited teacher status  
211 except that if such teacher is reemployed by the same board of  
212 education within five calendar years of the layoff, such teacher may  
213 count the previous continuous employment immediately prior to the  
214 layoff towards [tenure] accredited teacher status teacher [who has not  
215 attained tenure] shall not count authorized leave time towards [tenure]  
216 accredited teacher status if such time exceeds ninety student school  
217 days in any one school year, provided only the student school days  
218 worked that year by such teacher shall count towards [tenure]  
219 accredited teacher status and shall be computed on the basis of  
220 eighteen student school days or the greater fraction thereof equaling  
221 one school month.

222 (B) For a teacher who has attained [tenure] accredited teacher  
223 status prior to layoff, [tenure] accredited teacher status shall resume if  
224 such teacher is reemployed by the same board of education within five  
225 calendar years of the layoff.

226 (C) Except as provided in subparagraphs (B) and (D) of this  
227 subdivision, any teacher who has attained [tenure] accredited teacher  
228 status with any one board of education and whose employment with  
229 such board ends for any reason and who is reemployed by such board  
230 or is subsequently employed by any other board, shall attain [tenure]  
231 accredited teacher status after completion of twenty school months of

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232 continuous employment. The provisions of this subparagraph shall not  
233 apply if, (i) prior to completion of the twentieth school month  
234 following commencement of employment by such board, such teacher  
235 has been notified in writing that his or her contract will not be renewed  
236 for the following school year or (ii) for a period of five or more  
237 calendar years immediately prior to such subsequent employment,  
238 such teacher has not been employed by any board of education.

239 (D) Any certified teacher or administrator employed by a local or  
240 regional board of education for a school district identified as a priority  
241 school district pursuant to section 10-266p may attain [~~tenure~~]  
242 accredited teacher status after ten months of employment in such  
243 priority school district, if such certified teacher or administrator  
244 previously attained [~~tenure~~] accredited teacher status with another  
245 local or regional board of education in this state or another state.

246 (9) The term "school month" means any calendar month other  
247 than July or August in which a teacher is employed as a teacher at least  
248 one-half of the student school days.

249 (b) Any board of education may authorize the superintendent to  
250 employ teachers. Any superintendent not authorized to employ  
251 teachers shall submit to the board of education nominations for  
252 teachers for each of the schools in the town or towns in such  
253 superintendent's jurisdiction and, from the persons so nominated,  
254 teachers may be employed. Such board shall accept or reject such  
255 nominations within thirty-five days from their submission. Any such  
256 board of education may request the superintendent to submit multiple  
257 nominations of qualified candidates, if more than one candidate is  
258 available for nomination, for any supervisory or administrative  
259 position, in which case the superintendent shall submit such a list and  
260 may place the candidates on such list in the order in which such  
261 superintendent recommends such candidates. If such board rejects  
262 such nominations, the superintendent shall submit to such board other  
263 nominations and such board may employ teachers from the persons so  
264 nominated and shall accept or reject such nominations within one  
265 month from their submission. Whenever a superintendent offers a  
266 probationary teacher [~~who has not attained tenure~~] a contract to return  
267 for another year of employment, such offer shall be based on records of

268 evaluations pursuant to subsection (a) of section 10-151b and 10-151d.  
269 The contract of employment of a teacher shall be in writing.

270 (c) The contract of employment of a probationary teacher [~~who has not~~  
271 ~~attained tenure~~] may be terminated at any time for any of the reasons  
272 enumerated in subdivisions (1) to (6), inclusive, of subsection (d) of  
273 this section; otherwise the contract of such teacher shall be continued  
274 into the next school year unless such teacher receives written notice by  
275 April first in one school year that such contract will not be renewed for  
276 the following year and has received at least one summative evaluation  
277 in each school year in which such teacher has been employed by the  
278 district, conducted pursuant to 10-151b. Upon the teacher's written  
279 request, a notice of nonrenewal or termination shall be supplemented  
280 within seven days after receipt of the request by a statement of the  
281 reason or reasons for such nonrenewal or termination. Such teacher,  
282 upon written request filed with the board of education within twenty  
283 days after the receipt of notice of termination, or nonrenewal shall be  
284 entitled to a hearing, except as provided in this subsection, (A) before  
285 the board, (B) if indicated in such request and if designated by the  
286 board, before an impartial hearing panel established and conducted in  
287 accordance with the provisions of subsection (d) of this section, or (C)  
288 if the parties mutually agree before a single impartial hearing officer  
289 chosen by the teacher and the superintendent in accordance with the  
290 provisions of subsection (d) of this section. Such hearing shall  
291 commence within fifteen days after receipt of such request unless the  
292 parties mutually agree to an extension not to exceed fifteen days. The  
293 impartial hearing panel or officer or a subcommittee of the board of  
294 education, if the board of education designates a subcommittee of  
295 three or more board members to conduct hearings, shall submit  
296 written findings and recommendations to the board for final  
297 disposition. The teacher shall have the right to appear with counsel of  
298 the teacher's choice at the hearing. A probationary teacher [~~who has~~  
299 ~~not attained tenure~~] shall not be entitled to a hearing concerning  
300 nonrenewal if the reason for such nonrenewal is either elimination of  
301 position or loss of position to another teacher. The board of education  
302 shall rescind a nonrenewal decision only if the board finds such  
303 decision to be arbitrary and capricious. Any such teacher whose  
304 contract is terminated for the reasons enumerated in subdivisions (3)

305 and (4) of subsection (d) of this section shall have the right to appeal in  
306 accordance with the provisions of subsection (e) of this section.

307 (d) The contract of employment of an accredited teacher ~~[who has~~  
308 ~~attained tenure]~~ shall be continued from school year to school year,  
309 except that it may be terminated at any time ~~[for one or more of the~~  
310 ~~following reasons]~~ for just cause which shall include but not be limited  
311 to: (1) Inefficiency or incompetence, provided, [if a teacher is notified  
312 on or after July 1, 2000, that termination is under consideration due to  
313 incompetence,] the determination of incompetence is based on  
314 evaluation of the teacher using teacher evaluation guidelines  
315 established pursuant to section 10-151b and section 10-151d and fails to  
316 successfully complete an improvement and remediation plan pursuant  
317 to 10-151d; (2) insubordination against reasonable rules of the board of  
318 education; (3) moral misconduct; (4) disability, as shown by competent  
319 medical evidence; (5) elimination of the position to which the teacher  
320 was appointed or loss of a position to another teacher, if no other  
321 position exists to which such teacher may be appointed if qualified,  
322 provided such teacher, if qualified, shall be appointed to a position  
323 held by a teacher who has not attained ~~[tenure]~~ accredited teacher  
324 status, and provided further that determination of the individual  
325 contract or contracts of employment to be terminated shall be made in  
326 accordance with either (A) a provision for a layoff procedure agreed  
327 upon by the board of education and the exclusive employees'  
328 representative organization, or (B) in the absence of such agreement, a  
329 written policy of the board of education; or (6) other due and sufficient  
330 cause. Nothing in this section or in any other section of the general  
331 statutes or of any special act shall preclude a board of education from  
332 making an agreement with an exclusive bargaining representative  
333 which contains a recall provision. Prior to terminating a contract, the  
334 superintendent shall give the teacher concerned a written notice which  
335 shall contain a detailed statement of the reasons that termination of  
336 such teacher's contract is under consideration. ~~[and, upon written~~  
337 ~~request filed by such teacher with the superintendent, Within [seven~~  
338 ~~days after receipt of such notice, shall within the next succeeding seven~~  
339 ~~days give such teacher a statement in writing of the reasons therefor.~~  
340 ~~twenty]~~ ten days after receipt of said written notice ~~[by the~~  
341 ~~superintendent that contract termination is under consideration,]~~ such  
342 teacher may file with the ~~[local or regional board of education a~~



343 ~~written]~~superintendent a request for a hearing. [A board of education  
344 may designate a subcommittee of three or more board members to  
345 conduct hearings and submit written findings and recommendations  
346 to the board for final disposition in the case of teachers whose  
347 contracts are terminated.] Such hearing shall commence within fifteen  
348 days after receipt of such request, unless the parties mutually agree to  
349 an extension, not to exceed fifteen days. ~~[(A) before the board of~~  
350 ~~education or a subcommittee of the board, (B) if indicated in such~~  
351 ~~request or if designated by the board before an impartial hearing~~  
352 ~~panel, or (C) if the parties mutually agree,]~~ such hearing shall be held  
353 before a single impartial hearing officer chosen by the teacher and the  
354 superintendent. If the parties are unable to agree upon the choice of a  
355 hearing officer within five days after [their decision to use a hearing  
356 officer,]the teacher's request [the hearing shall be held before the board  
357 or panel, as the case may be. The impartial hearing panel shall consist  
358 of three members appointed as follows: The superintendent shall  
359 appoint one panel member, the teacher shall appoint one panel  
360 member, and those two panel members shall choose a third, who shall  
361 serve as chairperson. If the two panel members are unable to agree  
362 upon the choice of a third panel member within five days after the  
363 decision to use a hearing panel, the third panel member]the hearing  
364 officer shall be selected with the assistance of the American Arbitration  
365 Association using its expedited selection process and in accordance  
366 with its rules for selection of a neutral arbitrator in grievance  
367 arbitration. Such hearing shall be held on successive days. [If the third  
368 panel member is not selected with the assistance of such association  
369 within five days, the hearing shall be held before the board of  
370 education or a subcommittee of the board.] Within [seventy-five]sixty  
371 days after receipt of the request for a hearing, the [impartial] hearing  
372 [panel,] officer [subcommittee of the board or hearing officer,] unless  
373 the parties mutually agree to an extension not to exceed fifteen days,  
374 shall ~~[submit written findings and a recommendation to the board of~~  
375 ~~education as to the disposition of the charges against the teacher and~~  
376 ~~shall]~~ render a decision, which shall be final and binding regarding  
377 termination or other disposition of the charges against the teacher.  
378 ~~[send a copy of such findings and recommendation to the teacher. The~~  
379 ~~board of education shall give the teacher concerned its written decision~~  
380 ~~within fifteen days of receipt of the written recommendation of the~~  
381 ~~impartial hearing panel, subcommittee or hearing officer.] Each party~~

382 shall pay one half of the fee of the [panel member selected by it and  
383 shall share equally the fee of the third panel member or] hearing  
384 officer and all other costs incidental to the hearing. [If the hearing is  
385 before the board of education, the board shall render its decision  
386 within fifteen days after the close of such hearing and shall send a  
387 copy of its decision to the teacher.] The hearing shall be public if the  
388 teacher so requests [or the board, subcommittee, hearing officer or  
389 panel so designates]. The teacher concerned shall have the right to  
390 appear with counsel at the hearing, whether public or private. [A copy  
391 of a transcript of the proceedings of the hearing shall be furnished by  
392 the board of education, upon written request by the teacher within  
393 fifteen days after the board's decision, provided the teacher shall  
394 assume the cost of any such copy.] Nothing herein contained shall  
395 deprive a board of education or superintendent of the power to  
396 suspend a teacher from duty immediately when serious misconduct is  
397 charged without prejudice to the rights of the teacher as otherwise  
398 provided in this section.

399 (e) [Any teacher aggrieved by the decision of a board of education after  
400 a hearing as provided in subsection (d) of this section may appeal  
401 therefrom, within thirty days of such decision, to the Superior Court.  
402 Such appeal shall be made returnable to said court in the same manner  
403 as is prescribed for civil actions brought to said court. Any such appeal  
404 shall be a privileged case to be heard by the court as soon after the  
405 return day as is practicable. The board of education shall file with the  
406 court a copy of the complete transcript of the proceedings of the  
407 hearing and the minutes of board of education meetings relating to  
408 such termination, including the vote of the board on the termination,  
409 together with such other documents, or certified copies thereof, as  
410 shall constitute the record of the case. The court, upon such appeal,  
411 shall review the proceedings of such hearing. The court, upon such  
412 appeal and hearing thereon, may affirm or reverse the decision  
413 appealed from in accordance with subsection (j) of section 4-183. Costs  
414 shall not be allowed against the board of education unless it appears to  
415 the court that it acted with gross negligence or in bad faith or with  
416 malice in making the decision appealed from.] Either party may move  
417 to confirm, vacate or modify the decision of the hearing officer  
418 pursuant to the provisions of sections 52-417 through 52-423 of the  
419 general statutes.